

REMARKS

Claims 1-62 are pending in the application. Claims 1-37 are allowed. Claims 38, 50 and 62 have been amended. Support for such amendments can be found throughout the specification and claims as original filed, for example, on pages 33-35 of the instant specification.

Amendment of the originally filed claims, or cancellation of any claims should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. The amendments are being made not only to point out with particularity and to claim the present invention, but also to expedite prosecution of the present application. Applicants reserve the option to prosecute the originally filed claims further, or similar ones, in the instant or subsequently filed patent applications.

Rejections under 35 U.S.C. § 103

Claims 38-62 stand rejected under 35 U.S.C. § 103 as being unpatentable over Thomeer, U.S. Patent 5,828,003 in view of Charboneau, U.S. 5,551,484.

The Action dated March 30 acknowledges that “Thomeer differs from the claimed invention because it does not disclose that the tubing comprises a sensor.” Further, Applicants again note that Charboneau appears to teach only a sensor located outside the tube, not attached to the outside *wall* of the tube, as the Action suggests.

However, in order to more particularly point out the claimed invention, Applicants have amended claims 38, 50 and 62 to recite a sensor that is connected for signal communication by way of the energy conductor, and coupled to an interior surface conductor. As Examiner knows a prima facie case of obviousness under 35 U.S.C. 103(a) requires at least a teaching, via the combination, of all the claimed limitations. Applicants submit that the asserted combination of references does not teach each claimed limitation. None of the cited references teach or recognize a spoolable tube that can detect ambient conditions such as temperature.

For a consideration of obviousness, “[t]he totality of the prior art must be considered, and proceeding contrary to accepted wisdom in the art is evidence of nonobviousness.”

M.P.E.P 2145 X D.3 For example, the Thomeer reference suggests the difficulty of spooling a tube with conductive wires. Faced with such a suggestion, one of skill in the art would not be motivated to include a sensor *coupled to an interior surface of the tube* as required by the instant claims.

For at least these reasons, Applicants respectfully request withdrawal of this rejection.

CONCLUSION

In view of the foregoing remarks, Applicants request that the Examiner reconsider and withdraw the pending rejections.

In accordance with 37 C.F.R. § 1.136(a), please grant any extension of time that this paper requires but no accompanying paper requests. Also, please charge any additional fee occasioned by this paper, or credit any overpayment, to our Deposit Account No. 07-1700, Reference FPY-048C3.

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Respectfully submitted,

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